

HOUSE BILL NO. 131

INTRODUCED BY R. STOKER

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO CONTRACT FOR ~~DEDICATED~~ CRISIS BEDS AND EMERGENCY AND COURT-ORDERED DETENTION BEDS FOR THE MENTALLY ILL; REQUIRING RULEMAKING; ~~PROVIDING AN APPROPRIATION~~; PROVIDING TARGET IMPLEMENTATION DATES; REQUIRING A REPORT; AND PROVIDING AN EFFECTIVE ~~DATE~~ DATES."

WHEREAS, the 2007 Legislature passed House Joint Resolution No. 26, requesting an interim legislative study to examine diversion of mentally ill adults from the justice system, and House Joint Resolution No. 50, requesting an interim legislative study to examine county precommitment costs related to involuntary commitment proceedings; and

WHEREAS, these studies were assigned to the Law and Justice Interim Committee; and

WHEREAS, this bill is one in a package of bills recommended by the Law and Justice Interim Committee to address diversion of mentally ill adults from the justice system to appropriate treatment; and

WHEREAS, the Law and Justice Interim Committee found that one of the biggest challenges to diverting mentally ill individuals from the justice system is a lack of community-based mental health treatment beds; and

WHEREAS, 63% of admissions to the Montana State Hospital, whose daily census routinely exceeds its licensed capacity of 189, are for emergency and court-ordered detention and evaluation; and

WHEREAS, 38% of emergency and court-ordered admissions to the Montana State Hospital do not result in commitments; and

WHEREAS, it is preferable for these psychiatric services to be provided locally and without fiscal pressure driving treatment decisions or decisions about whether to file an involuntary commitment petition; and

WHEREAS, the costs for local hospitals to provide psychiatric treatment services is very high and counties help pay some of these costs only after an involuntary commitment petition has been filed and only in an amount that would have been paid by a public assistance program; and

WHEREAS, these high unrecoverable costs can deter hospitals from providing community-based psychiatric treatment beds; and

WHEREAS, current involuntary commitment laws and funding mechanisms create tensions between mental health professionals concerned about the medical necessity for treatment, hospitals concerned that county funding is available only after an involuntary commitment petition is filed, county attorneys concerned that medical necessity is not necessarily legal sufficiency for an involuntary commitment petition, and county commissioners concerned about county costs after a commitment petition is filed; and

WHEREAS, some mental health facilities may be able to provide inpatient psychiatric services at lower cost by providing services in a nonhospital mental health facility or through a telepsychiatry linkage with a psychiatric unit at a community hospital or with the Montana State Hospital; and

WHEREAS, by contracting with private providers for dedicated local or regional psychiatric treatment beds at rates that would help subsidize county funding and reduce the risks to private providers, the state can become a partner in fostering creative local solutions that reduce emergency admissions to the Montana State Hospital.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Department to contract for detention beds -- rulemaking. (1) To the extent funding is appropriated for the purposes of this section, for each service area, as defined in 53-21-1001, the department shall contract with a mental health facility for up to three dedicated psychiatric treatment beds that may be used for:

(a) inpatient crisis intervention services needed prior to an involuntary commitment petition being filed; and

(b) emergency detention under 53-21-129 and court-ordered detention under 53-21-124 after an involuntary commitment petition has been filed but before final disposition.

(2) CONTRACTING PURSUANT TO THIS SECTION MUST TAKE INTO CONSIDERATION COUNTY STRATEGIC PLANS DEVELOPED PURSUANT TO 53-21-138 AND 53-21-139 AND LOCAL NEED FOR PRECOMMITMENT AND SHORT-TERM INPATIENT TREATMENT SERVICES.

~~(2)(3)~~ Each contract must provide that for payment of costs for detention, evaluation, and treatment pursuant to subsection (1), the facility shall bill for payment of costs in the order of priority provided for under 53-21-132(2)(a).

~~(3)(4)~~ Each contract must require the collection and reporting of fiscal and program data in the time and

manner prescribed by the department to support program evaluation and measure progress on performance objectives. The department shall establish baseline data on emergency and court-ordered detention admissions to the state hospital from each county and analyze the effect of contracting under this section on state hospital admissions.

~~(4)(5)~~ The department shall adopt rules to implement this section.

~~NEW SECTION. Section 2. Appropriation. (1) There is appropriated from the general fund to the department of public health and human services:~~

~~— (a) for fiscal year 2010, \$410,625; and~~

~~— (b) for fiscal year 2011, \$410,625.~~

~~— (2) The money appropriated in this section may be used only for the purposes of [section 1].~~

NEW SECTION. Section 2. Implementation -- report. (1) The provisions of [section 1] may be implemented in phases. However, it is the legislature's intent that contracted beds be operational in at least one service area by no later than July 1, 2010, SEPTEMBER 1, 2009, and that full implementation be completed by no later than July 1, 2010.

(2) ~~As soon as possible after July 1, 2010, UPON REQUEST,~~ the department shall report to the law and justice interim committee established in 5-5-226 on the implementation status of contracting under [section 1].

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [section 1].

NEW SECTION. SECTION 4. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 645 AND [THIS ACT] ARE PASSED AND APPROVED AND IF HOUSE BILL NO. 645 DOES NOT INCLUDE LINE ITEM FUNDING FOR A COMMUNITY MENTAL HEALTH CRISIS SERVICES DEMONSTRATION PROJECT FOR THE PURPOSES OF [THIS ACT], THEN [THIS ACT] IS VOID.

NEW SECTION. Section 5. Effective date DATES. ~~[This act]~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT] is effective July 1, 2009.

(2) [SECTIONS 1(5) AND 4 AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.

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